

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 218 be amended to read as follows:

- 1 Page 1, line 8, delete "person;" and insert "**person who is at least**
- 2 **eighteen (18) years of age;**".
- 3 Page 1, line 14, strike "proving:" and insert "**proving by clear and**
- 4 **convincing evidence;**".
- 5 Page 2, line 3, delete "proving:" and insert "**proving by clear and**
- 6 **convincing evidence;**".
- 7 Page 2, after line 7, begin a new paragraph and insert:
- 8 "**(e) Damages described in subsection (b) may not be reduced by**
- 9 **more than one percent (1%) for failing to comply with section 2 of**
- 10 **this chapter.**
- 11 **(f) If evidence that a plaintiff did not comply with section 2 of**
- 12 **this chapter is admitted in a civil action, the court shall also admit**
- 13 **the following evidence:**
- 14 (1) The name of the defendant's liability insurance carrier.
- 15 (2) The amount of liability insurance carried by the defendant.
- 16 (3) The fact that the defendant's insurance carrier or carriers,
- 17 rather than the defendant, will pay any verdict or judgment
- 18 against the defendant up to the policy limits.
- 19 (4) The name of the defendant's excess liability carrier.
- 20 (5) The amount of excess liability coverage carried by the
- 21 defendant.
- 22 (6) The name of any other individual or entity with whom the
- 23 defendant is insured and the amount of that coverage.
- 24 (7) The name of any other individual or entity from whom the

1 defendant is entitled to indemnification or reimbursement  
2 relative to any verdict or judgment entered against the  
3 defendant with respect to the plaintiff's claim.

4 (8) Any advance payments that have been made by the  
5 defendant, the defendant's insurance carrier, or any other  
6 individual or entity on behalf of the defendant, including but  
7 not limited to payments for property damage, medical  
8 expenses, lost wages or income, and pain and suffering.

9 (9) The amount of attorney fees the plaintiff must pay out of  
10 any verdict or judgment.

11 (10) The amount of litigation expenses that have been  
12 incurred to pursue the claim, including but not limited to fees  
13 paid to expert witnesses and consultants, deposition costs,  
14 investigation costs, and costs associated with preparing  
15 exhibits.

16 (11) Any evidence suggesting that during the twenty-four (24)  
17 hour period preceding the collision from which the plaintiff's  
18 claim arises the defendant:

19 (A) had been drinking alcohol of any kind; or

20 (B) had ingested medication or drugs, or both, that affected  
21 the defendant's ability to operate a motor vehicle.

22 (g) If evidence that a plaintiff did not comply with section 2 of  
23 this chapter is admitted in a civil action, a defendant may not  
24 prevent the facts surrounding the occurrence of the collision from  
25 being presented to the jury by admitting liability for the collision.".

(Reference is to ESB 218 as printed March 18, 2005.)

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Representative Duncan